

FREQUENTLY ASKED QUESTIONS

I recently had a background check done through my job and the charge that I had expunged still appears. What do I do? If the record check was not processed through the State of Maryland, you must go back to your company and have them do a fingerprint supported check through CJIS to receive an accurate record check.

Is there a fee for an expungement? The court charges a processing fee; contact the court for information.

I just received a copy of the court order and certificate of compliance from the courts. Does this mean I am clear to apply for a job or adopt? No, this is only your certification that the court has complied with the order and notified the parties on the form. Until you have received a compliance letter from the listed parties on the court order, do not assume that your record has been cleared of the petitioned charge.

When I apply for an expungement through the court, does that clear my entire criminal record? No, only those records appearing on the final order are expunged. To expunge an entire record, you must apply for expungement of each arrest based on the date of arrest and according to the disposition.

Are court records automatically expunged after a certain period? No, you must file for a petition in order for a charge to be expunged.

What is the procedure if I have a guilty charge to expunge? You must call the Parole Commissioner's Office at 410-585-3440 to request a packet for a pardon.

Can I come to CJIS-CR to resolve any issues with my expungement? No, the office is not equipped to handle public appointments. Please call the toll free number: 888-795-0011

I am applying for a job. Is there any way to speed up the process? No. The expungement process cannot be expedited or "fast tracked" through the system. All cases are handled in exactly the same manner. There are no exceptions.

You are not entitled to expungement

- If you have a guilty finding in any case in any court (except for certain nuisance crimes under CP §10-105 (a)(9)).
- Your case had several charges and you were convicted of at least one charge arising from a single incident of arrest.
- Since the entry of probation before judgment, a nolle prosequi, a stet, a pardon or conviction of a specified public nuisance crime, you have been convicted of a crime other than a minor traffic violation or are a defendant in a pending criminal proceeding.
- If you received a probation before judgment on a charge of DUI or DWI (Transportation Article, § 21-902) or Criminal Law Article, §§ 2-503, 2-504, 2-505, or 2-506, or former Article 27, § 388A or § 388B.

MUST I DISCLOSE EXPUNGED CHARGES?

According to Maryland law:

Disclosure of expunged information about civil citations and criminal charges in an application, interview, or other means may not be required of a person who applies for employment, etc.

A person need not refer to or give information concerning an expunged charge when answering a question concerning a criminal charge or civil citation that did not result in a conviction or that the Governor pardoned.

Refusal by a person to disclose information about criminal charges or civil citations that have been expunged may not be the sole reason for refusal to hire the person.

If you have further questions about the expungement law, please see Maryland Criminal Procedures Article 10-101 to 10-109. You may wish to consult an attorney to determine how the law applies to your situation.

WHO DOES WHAT?

Circuit Court: located in every county. For information see:
<http://mdcourts.gov/circuit/index.html>

District Court: For information see:
<http://mdcourts.gov/district/index.html>

Motor Vehicle Administration: For information call 1-800-950-1MVA or see:
<http://www.mva.state.md.us/>

Criminal Justice Information System (CJIS) of the Department of Public Safety & Correctional Services collects and maintains criminal records. For information, call toll free 888-795-0011 or see:
<http://www.dpscs.state.md.us/aboutdpscs/>

Individuals can check their own criminal history by visiting their local police barracks to request an individual review. You will be fingerprinted and your fingerprint identification will be sent to the CJIS Central Repository at P.O. Box 32708 Pikesville, MD, 21282-2708. Once received, CJIS will then process the results and mail them back to you.

For more information, visit the Judiciary website at: <http://mdcourts.gov>

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EXPUNGEMENT

HOW TO REMOVE CRIMINAL RECORDS FROM PUBLIC ACCESS IN MARYLAND

WHAT IS EXPUNGEMENT?

Expungement is the removal of records from public inspection. In Maryland, records may be expunged from 1) Motor Vehicle Administration files, 2) police files and 3) court and police files. Each process removes very specific files and must be done through the proper agency. No process expunges the records from all agencies.

Motor Vehicle Administration (MVA)

Many motor vehicle records are automatically expunged after 3 years; other records may be manually expunged, depending upon the offense for which you were convicted and the length of time since your last conviction. For additional information, contact the MVA.

Police Records: When No charges were filed

- **Effective 10/1/2007**, if you were detained by a police agency, but were released without being charged, records will automatically be expunged within 60 days after release.

- **Prior to 10/1/2007**, if you were detained by a police agency, but were released without being charged, records may exist in police files. To get these records expunged, contact the arresting agency and request an *Investigative Release Form*. Ask the agency for specific information on how its process works. Expungement must be requested within 8 years of incident date.

Court/Police Records may exist:

- **If you have been arrested and charged** with a crime, including a traffic violation for which a term of imprisonment may be imposed.
- **If you have been charged** with a civil offense or infraction as a substitute for a criminal charge.

To remove these records, you may file a petition for expungement with the court if:

- You were found not guilty
- You were found guilty of certain nuisance crimes
- The charge was dismissed
- The charge resulted in probation before judgment (excluding charges of driving while under the

influence or driving while impaired)

- The State's Attorney did not prosecute (nolle prosequi) your charge
- The Court indefinitely postponed your case (stet)
- Your case was compromised (settled)
- You were convicted of only one non-violent criminal act and you were granted a full and unconditional pardon by the Governor

WHEN CAN I FILE FOR EXPUNGEMENT?

The waiting period required for filing a petition for expungement varies, depending on how your case was concluded and whether you file a *General Waiver and Release* form.

- If your petition is based on an **acquittal**, a **nolle prosequi**, or a **dismissal**, you may not file a petition within three years after the disposition, unless you also file a *General Waiver and Release* of all legal claims and lawsuits arising from the charge.
- If your petition is based on a **probation before judgment or a guilty verdict for a specified nuisance crime**, you may not file until *both* of the following have occurred:
 - At least 3 years have passed since your probation was granted, and
 - Your probation has ended.
- If your petition is based on a **stet** or a **compromise**, you may not file within 3 years of your case's disposition.

WHAT IS A GENERAL WAIVER AND RELEASE?

This form releases all persons and agencies from any claims regarding the arrest or detention. It must be filed in order to process an expungement, if it is less than 3 years from the time your case was concluded.

Juvenile Records

Juvenile records are sealed and should not appear in criminal records. However, you may file for expungement of the record if the original charge was transferred to the juvenile court. Contact the **Juvenile Division** of the Circuit Court for information.

HOW DO I FILE FOR EXPUNGEMENT?

1. Obtain a petition for *Expungement of Police and Court Records* (Form CC-DC/CR 72) and the *General Waiver and Release* (Form CC-DC/CR 78) at any District or circuit court. (Form available online at: www.mdcourts.gov)
2. You will need to know the case number, date that you were arrested, summoned, or cited; the law enforcement agency that took the action; the offense with which you were charged; and the date your case was disposed.
3. File forms with a copy for the State's Attorney and each law enforcement agency named in the petition. You must file in the the court in which your case was concluded.
4. Pay the non-refundable filing fees.

HOW LONG DOES IT TAKE?

The process should take approximately 90 days from the time you file your petition, unless there is an objection or an appeal. If the State's Attorney and/or the law enforcement agencies object to your petition, the court shall hold a hearing and will notify you to attend.

If the State's Attorney and the law enforcement agencies do not object within 30 days of receiving the petition, the court shall pass an order requiring the expungement of all police and court records about the charges. The court will notify you that your petition has been granted or denied. If denied, you will be notified of a date for your hearing.

The expungement process cannot be expedited or "fast tracked" through the system. All cases are handled in exactly the same manner. There are no exceptions.

After the court orders are sent to each required agency, then each agency has **60 days from the received date** to comply with the court order. You will receive a Certificate of Compliance in the mail to notify you that your expungement has been completed. **Until you receive your certificate of compliance from each agency listed on your petition, do not assume that your records have been expunged.**

HELPFUL SUGGESTIONS

The following suggestions will help you succeed with an expungement:

Make sure that you have filled the expungement petition completely with your full name, including any alias that you used at the time of arrest, date of birth and current address.

Have a background check done through CJIS-Central Repository if you are not sure of dates of arrest and occurrences. This will also allow you to see what is on your Criminal History.

After the expungement process is completed, have a background check done. This is to double check that the expungement was done as well as check for any other occurrences that may appear.

Ensure that you have filed at the appropriate time and not too soon. Filing too soon will cause the expungement to be denied. The fee is non-refundable.

Make sure you are filing in the appropriate court jurisdiction (District or circuit). If your case was appealed to a higher court, that is where you need to file. This can delay your case from being expunged from the State of Maryland in a timely manner.

Make sure you keep copies of all the expungement documents and the order since they may be needed for future reference. Once the case has been expunged, all documents pertaining to the case will be destroyed.

TO REQUEST AN EXPUNGEMENT:

1. **COMPLETE THE PETITION FOR EXPUNGEMENT AND THE GENERAL WAIVER AND RELEASE (IF NECESSARY).**
2. **FILE THE PETITION AND REQUIRED COPIES.**
3. **PAY THE FILING FEES.**